

SA2005RF0007

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TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

Via Hand Delivery

January 5, 2005

Ms. Tricia Knight
Initiative Coordinator
Attorney General's Office
Sacramento, CA 95814

Re: The Fair and Fiscally Responsible Public Employee Retirement Act

Dear Ms. Knight:

By this letter, I respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the Fair and Fiscally Responsible Public Employee Retirement Act, a copy of which is attached. Attached to this letter is the resident address of the undersigned.

Any correspondence regarding this initiative should be directed to Jon Coupal, Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916.444.9950).

Thank you for your cooperation.

Sincerely,

Jon Coupal
President

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

THE FAIR AND FISCALLY RESPONSIBLE PUBLIC EMPLOYEE RETIREMENT ACT

This initiative measure is submitted to the People of California in accordance with the provisions of Article II, Section 8 of the Constitution.

SECTION 1. Title.

This measure shall be known and cited as "The Fair and Fiscally Responsible Public Employee Retirement Act.

SEC. 2. Findings and Declarations.

The People of California hereby find and declare as follows:

- a) California's state and local governments face severe budget crisis because elected officials spend more than they receive in taxes. A fair and balanced approach to restoring long-term fiscal responsibility must include limiting the cost of government employee pensions which have grown dramatically in recent years, threatening the long-term investments California needs in education, infrastructure, health care and public safety.
- b) California has among the nation's most generous public pension plans, providing some employees with more than 100% of their final years' salary at age 50. During the past 20 years, most private employers have moved to defined contribution plans such as 401(k) plans to limit costs, promote responsible budgeting and improve fiscal accountability.
- c) The struggle to meet the demands of generous pension plans negotiated by elected officials has increased state and local government debt by more than \$12 billion, leaving more than \$30 billion in additional unfunded costs for future retirees. Creating defined contribution plans for all state and local government employees will eliminate new unfunded liabilities.
- d) Under current law, existing state and local government employees cannot have their retirement plans changed by this Act. Promises made to all current public employee retirement system members will be kept under this Act. A switch from defined benefits to defined contributions plans will only affect employees hired by public agencies on or after July 1, 2007.
- e) In order to protect the investments California needs to improve the quality of life in the decades ahead, a limit on the amount of public agency contributions to defined contribution plans must be included in this Act. The limits established by this Act are consistent with employer contributions to 401(k) plans most commonly found in the private sector with important adjustments for education and public safety employees.
- f) Unlike current government pension plans, defined contribution plans allow employees to enhance their credit standing, control their assets, move pension assets from one job to another, and pass along remaining funds to their heirs.

- g) Defined contribution plans will make government officials more accountable for spending public money; reduce the long-term cost of retirement plans; provide greater budget predictability; and help restore fiscal responsibility to state and local budgets.

SEC. 3. Purpose and Intent.

(a) In enacting this measure, the people of the State of California intend to prohibit all public agencies from having defined benefit retirement plans for employees hired on and after July 1, 2007 and to authorize all such employees of public agencies to enroll only in a defined contribution plan. The people intend that commitments made to existing public employees enrolled in defined benefit plans be fully honored.

(b) This measure also establishes the California Public Employee Defined Contribution Plan, and limits the contributions which public agencies employers may make to such plans.

SEC. 4. Section 8 is added to Article XX of the Constitution to read:

Sec. 8. (a) The California Public Employee Defined Contribution Plan is hereby established.

(b) Notwithstanding any other provision of law or this Constitution, on and after July 1, 2007, any person hired as a new employee by a public agency may enroll only in a defined contribution plan of a public pension or retirement system, and shall not enroll in a defined benefit plan.

(c) On and after July 1, 2007, and before January 1, 2008, any active member of a defined benefit plan offered by any public agency may transfer a sum equal to the net present value of that member's interest in the defined benefit plan to a defined contribution plan as defined in this section.

(d) As used in this section, the following terms apply:

(1) "Defined benefit plan" means a system providing a pension benefit determined by a formula based on age, service credit, and final salary.

(2) "Defined contribution plan" means a system providing a pension benefit that is equal to the combined employer and employee contributions plus interest and net investment earnings, less administrative expenses. A public agency may use one or more private third-party administrators to manage a defined contribution plan, provide investment vehicles and educate members and retirees on appropriate investment strategies.

(3) "Public agency" includes, but is not limited to, the State of California, and any city, city and county, or county, including a charter city or charter county, district, school district, University of California, California State University or other political subdivision or public entity of, or organized under the laws of, this State, or any department, instrumentality, or agency thereof.

SEC. 5. Title 18, commencing with section 99100, is added to the Government Code to read:

Title 18. California Public Employee Defined Contribution Plan

Chapter 1. General Provisions

99100(a) On and after July 1, 2007, a public agency's contribution to a defined contribution plan shall not exceed six percent of an employee's base salary, which shall not include overtime, vacation or sick leave allowances, except that a public agency's contributions up to 9 percent of an employee's base salary may be made for sworn police officers and full-time fire fighters. For employees not covered by the Federal Social Security Program a public agency may contribute up to an additional three percent of base salary.

(b) No public agency shall make a contribution to a defined contribution plan in excess of three percent of salary without a matching contribution from the employee, except in the case of sworn police officers and full time firefighters, that contribution may be 4.5 percent. A qualified matching contribution under this section shall be at least one dollar from the employee for every two dollars by the public agency, up to the limits established in subsection (a). Employees may make additional unmatched contributions to the limits established by federal law.

(c) With respect to any local public agency comprised of directly elected public officials, the limits imposed by subdivision (a) may be exceeded upon a vote of two-thirds of the electorate of that public agency.

(d) "Public Agency" and "Defined Contribution Plan" shall be as defined in Article XX, Section 8 of the Constitution.

SEC. 6. In the event that this measure and another measure or measures relating to retirement plans of public employees shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SEC. 7. If any of the provisions of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions are severable.

SEC. 8. The statutory limits set forth in subdivision (a) of Government Code section 99100 enacted by this measure may be amended only by two identical bills introduced in two successive sessions of the Legislature, each passed by three-quarters of the membership of both houses of the Legislature and each signed by the Governor.